

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DANIEL GUZMAN VELA,

Plaintiff,

v.

FRESNO POLICE OFFICER REY  
MEDELES; FRESNO POLICE  
OFFICER GUSTAVO GUTIERREZ;  
THE CITY OF FRESNO; UNKNOWN  
LAW ENFORCEMENT OFFICERS

Defendants.

Case No. 1:24-cv-00471-KES-SKO  
District Judge Kirk E. Sherriff  
Magistrate Judge Sheila K. Oberto

**PROTECTIVE ORDER RE  
CONFIDENTIAL DOCUMENTS**

(Doc. 17)

Trial Date: n/a

PURSUANT TO THE STIPULATION OF THE PARTIES (“Stipulation for Entry of Protective Order re Confidential Documents”), and pursuant to the Court’s inherent and statutory authority, including but not limited to the Court’s authority under the applicable Federal Rules of Civil Procedure and the United States District Court, Eastern District of California Local Rules; after due consideration of all of the relevant pleadings, papers, and records in this action; and upon such other evidence

1 or argument as was presented to the Court; Good Cause appearing therefor, and in  
2 furtherance of the interests of justice,

3 IT IS HEREBY ORDERED that:

4 **1. SCOPE OF PROTECTION.**

5 The protections conferred by the parties' Stipulation and this Order cover not  
6 only Protected Material/Confidential Information or Items (as defined below), but  
7 also (1) any information copied or extracted from Protected Material; (2) all copies,  
8 excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
9 conversations, or presentations by Parties or their Counsel that might reveal Protected  
10 Material. However, the protections conferred by the parties' Stipulation and this Order  
11 do *not* cover the following information: (a) any information that is in the public  
12 domain at the time of disclosure to a Receiving Party or becomes part of the public  
13 domain after its disclosure to a Receiving Party as a result of publication not involving  
14 a violation of this Order, including becoming part of the public record through trial or  
15 otherwise; and (b) any information known to the Receiving Party prior to the  
16 disclosure or obtained by the Receiving Party after the disclosure from a source who  
17 obtained the information lawfully and under no obligation of confidentiality to the  
18 Designating Party.

19 Protected Material/Confidential Information or Items is defined as follows:  
20 information (regardless of the medium or how generated, stored, or maintained) or  
21 tangible things that qualify for protection under standards developed under Federal  
22 Rule of Civil Procedure Rule 26(c) and/or applicable federal privileges. This material  
23 includes medical records, psychotherapeutic records, and autopsy photographs. It also  
24 includes peace officer personnel records as defined by California Penal Code §§  
25 832.8, 832.5, 832.7 and the associated case law. It further includes personal  
26 identifying information of third party witnesses.

1       **Any use of Protected Material at trial shall be governed by the Orders of**  
2 **the trial judge: this Stipulation and its associated Protective Order do not govern**  
3 **the use of Protected Material at trial.**

4       **2. PURPOSES AND LIMITATIONS.**

5       Disclosure and discovery activity in this action are likely to involve production  
6 of confidential, proprietary, or private information for which special protection from  
7 public disclosure and from use for any purpose other than prosecuting or defending  
8 this litigation would be warranted. Accordingly, the parties have stipulated to and  
9 petitioned the court to enter the following Order.

10       The parties have acknowledged that this Order does not confer blanket  
11 protections on all disclosures or responses to discovery and that the protection it  
12 affords extends only to the specified information or items that are entitled, under the  
13 applicable legal principles, to treatment as confidential.

14       The parties further acknowledge, as set forth below, that this Order creates no  
15 entitlement to file confidential information under seal, except to the extent specified  
16 herein; Eastern District Local Rules 141, 141.1, 143, 230, and/or 251 set forth the  
17 procedures that must be followed and reflects the standards that will be applied when  
18 a party seeks permission from the court to file material under seal.

19       Nothing in this Order shall be construed so as to require or mandate that any  
20 Party disclose or produce privileged information or records that could be designated  
21 as Confidential Documents/Protected Material hereunder.

22       **3. DURATION OF PROTECTION.**

23       Even after final disposition of this litigation, the confidentiality obligations  
24 imposed by this Order shall remain in effect until a Designating Party agrees  
25 otherwise in writing or a court order otherwise directs.

26       Final disposition shall be deemed to be the later of (1) dismissal of all claims  
27 and defenses in this action, with or without prejudice; and (2) final judgment herein  
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1 after the completion and exhaustion of all appeals, rehearings, remands, trials, or  
2 reviews of this action, including the time limits for filing any motions or applications  
3 for extension of time pursuant to applicable law.

4 **4. DESIGNATION OF PROTECTED MATERIAL**

5 4.1. Exercise of Restraint and Care in Designating Material for Protection.

6 Each Party or non-party that designates information or items for protection  
7 under the parties' Stipulation and this Order must take care to limit any such  
8 designation to specific material that qualifies under the appropriate standards. A  
9 Designating Party must take care to designate for protection only those parts of  
10 material, documents, items, or oral or written communications that qualify – so that  
11 other portions of the material, documents, items or communications for which  
12 protection is not warranted are not swept unjustifiably within the ambit of this  
13 Order.

14 Mass, indiscriminate, or routine designations are prohibited. Designations that  
15 are shown to be clearly unjustified, or that have been made for an improper purpose  
16 (e.g., to unnecessarily encumber or inhibit the case development process, or to impose  
17 unnecessary expenses and burdens on other parties), expose the Designating Party to  
18 sanctions.

19 If it comes to a Party's or a non-party's attention that information or items that  
20 it designated for protection do not qualify for protection at all, or do not qualify for  
21 the level of protection initially asserted, that Party or non-party must promptly notify  
22 all other parties that it is withdrawing the mistaken designation.

23 4.2. Manner and Timing of Designations. Except as otherwise provided in  
24 this Order, or as otherwise stipulated or ordered, material that qualifies for protection  
25 under this Order must be clearly so designated before the material is disclosed or  
26 produced.

27 Designation in conformity with this Order requires:  
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1 (a) for information in documentary form (apart from transcripts of  
2 depositions or other pretrial or trial proceedings, and regardless of whether produced  
3 in hardcopy or electronic form), that the Producing Party affix the legend  
4 “CONFIDENTIAL” to each page that contains Protected Material. If only a portion  
5 or portions of the material on a page qualifies for protection, the Producing Party also  
6 must clearly identify the protected portion(s) (e.g., by making appropriate markings  
7 in the margins) and must specify, for each portion that it is “CONFIDENTIAL.” The  
8 placement of such “CONFIDENTIAL” stamp on such page(s) shall not obstruct the  
9 substance of the page’s (or pages’) text or content.

10 A Party or Non-Party that makes original documents or materials available for  
11 inspection need not designate them for protection until after the inspecting Party has  
12 indicated which material it would like copied and produced. During the inspection  
13 and before the designation, all of the material made available for inspection shall be  
14 deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
15 documents it wants copied and produced, the Producing Party must determine which  
16 documents, or portions thereof, qualify for protection under this Order. Then, before  
17 producing the specified documents, the Producing Party must affix the  
18 “CONFIDENTIAL” legend to each page that contains Protected Material. If only a  
19 portion or portions of the material on a page qualifies for protection, the Producing  
20 Party also must clearly identify the protected portion(s) (e.g., by making appropriate  
21 markings in the margins).

22 (b) for testimony given in deposition or in other pretrial or trial  
23 proceedings, that the Party or non-party offering or sponsoring the testimony  
24 identify on the record, before the close of the deposition, hearing, or other  
25 proceeding, all protected testimony, and further specify any portions of the  
26 testimony that qualify as “CONFIDENTIAL.” When it is impractical to identify  
27 separately each portion of testimony that is entitled to protection, and when it  
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1 appears that substantial portions of the testimony may qualify for protection, the  
2 Producing Party may invoke on the record (before the deposition or proceeding is  
3 concluded) a right to have up to twenty (20) days to identify the specific portions of  
4 the testimony as “CONFIDENTIAL.” Only those portions of the testimony that are  
5 appropriately designated as “CONFIDENTIAL” for protection within the 20 days  
6 shall be covered by the provisions of the parties’ Stipulation and this Protective  
7 Order.

8 Transcript pages containing Protected Material must be separately bound by  
9 the court reporter, who must affix to each such page the legend “CONFIDENTIAL,”  
10 as instructed by the Producing Party.

11 (c) for information produced in some form other than documentary, and for  
12 any other tangible items (including but not limited to information produced on disc or  
13 electronic data storage device), that the Producing Party affix in a prominent place on  
14 the exterior of the container or containers in which the information or item is stored  
15 the legend “CONFIDENTIAL.” If only portions of the information or item warrant  
16 protection, the Producing Party, to the extent practicable, shall identify the protected  
17 portions, specifying the material as “CONFIDENTIAL.”

18 4.3. Inadvertent Failures to Designate. If timely corrected (preferably, though  
19 not necessarily, within 30 days of production or disclosure of such material), an  
20 inadvertent failure to designate qualified information or items as “CONFIDENTIAL”  
21 does not, standing alone, waive the Designating Party’s right to secure protection  
22 under the parties’ Stipulation and this Order for such material. If material is  
23 appropriately designated as “CONFIDENTIAL” *after* the material was initially  
24 produced, the Receiving Party, on timely notification of the designation, must make  
25 reasonable efforts to assure that the material is treated in accordance with the parties’  
26 Stipulation and this Order.

1           4.4. Alteration of Confidentiality Stamp Prohibited. A Receiving Party shall  
2 not alter, edit, or modify any Protected Material so as to conceal, obscure, or remove  
3 a “CONFIDENTIAL” stamp or legend thereon; nor shall a Receiving Party take any  
4 other action so as to make it appear that Protected Material is not subject to the terms  
5 and provisions of the parties’ Stipulation and this Order. However, nothing in this  
6 section shall be construed so as to prevent a Receiving Party from challenging a  
7 confidentiality designation subject to the provisions of section 5, *infra*.

8 **5. CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

9           5.1. Timing of Challenges. Any Party or Non-Party may challenge a  
10 designation of confidentiality at any time that is consistent with the Court's  
11 Scheduling Order. Unless a prompt challenge to a Designating Party’s confidentiality  
12 designation is necessary to avoid foreseeable substantial unfairness, unnecessary  
13 economic burdens, or a later significant disruption or delay of the litigation, a Party  
14 does not waive its right to challenge a confidentiality designation by electing not to  
15 mount a challenge promptly after the original designation is disclosed.

16           5.2. Meet and Confer. Prior to challenging a confidentiality designation, a  
17 Challenging Party shall initiate a dispute resolution process by providing written  
18 notice of each specific designation it is challenging, and describing the basis (and  
19 supporting authority or argument) for each challenge. To avoid ambiguity as to  
20 whether a challenge has been made, the written notice must recite that the challenge  
21 to confidentiality is being made in accordance with this specific paragraph of this  
22 Protective Order. The parties shall attempt to resolve each challenge in good faith and  
23 must begin the process by conferring directly (in voice to voice dialogue, either in  
24 person, telephonically, or by other comparable means, but *not* by correspondence)  
25 within 14 days of the date of service of notice.

26           In conferring, the Challenging Party must explain the specific basis for its belief  
27 that the confidentiality designation was not proper and must give the Designating  
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1 Party an opportunity to review the designated material, to reconsider the  
2 circumstances, and, if no change in designation is offered, to explain the basis for the  
3 chosen designation. A Challenging Party may proceed to the next stage of the  
4 challenge process only if it has engaged in this meet and confer process first or  
5 establishes that the Designating Party is unwilling to participate in the meet and confer  
6 process in a timely manner.

7 Frivolous challenges, and those challenges made for an improper purpose (*e.g.*,  
8 to harass or impose unnecessary expenses and burdens on other parties), may expose  
9 the Challenging Party to sanctions.

10 5.3. Judicial Intervention. If the Parties cannot resolve a confidentiality  
11 challenge without court intervention, the Challenging Party shall file and serve a  
12 motion to remove confidentiality (under the applicable rules for filing and service of  
13 discovery motions) within 14 days of the parties agreeing that the meet and confer  
14 process will not resolve their dispute, or by the first day of trial of this matter,  
15 whichever date is earlier – unless the parties agree in writing to a longer time.

16 The parties must strictly comply with Eastern District Local Rules 141, 141.1,  
17 143, 230, and/or 251 (including the joint statement regarding discovery dispute  
18 requirement) in any motion associated with this Protective Order.

19 Each such motion must be accompanied by a competent declaration affirming  
20 that the movant has complied with the meet and confer requirements imposed in the  
21 preceding paragraph. In addition, the Challenging Party may file a motion challenging  
22 a confidentiality designation at any time if there is good cause for doing so, including  
23 a challenge to the designation of a deposition transcript or any portions thereof. Any  
24 motion brought pursuant to this provision must be accompanied by a competent  
25 declaration affirming that the movant has complied with the meet and confer  
26 requirements imposed by the preceding paragraph.



1 The burden of persuasion in any such challenge proceeding shall be on the  
2 Designating Party, regardless of whether the Designating Party is the moving party or  
3 whether such Party sought or opposes judicial intervention. Frivolous challenges, and  
4 those made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses  
5 and burdens on other parties) may expose the Challenging Party to sanctions. Unless  
6 the Designating Party has waived the confidentiality designation by failing to oppose  
7 a motion to remove confidentiality as described above, all parties shall continue to  
8 afford the material in question the level of protection to which it is entitled under the  
9 Producing Party's designation until the court rules on the challenge.

10 5.4. Withdrawal of "CONFIDENTIAL" Designation. At its discretion, a  
11 Designating Party may remove Protected Material/Confidential Documents from  
12 some or all of the protections and provisions of the parties' Stipulation and this Order  
13 at any time by any of the following methods:

14 (a) Express Written Withdrawal. A Designating Party may withdraw a  
15 "CONFIDENTIAL" designation made to any specified Protected  
16 Material/Confidential Documents from some or all of the protections of the parties'  
17 Stipulation and this Order by an express withdrawal in a writing signed by such Party  
18 (or such Party's Counsel, but not including staff of such Counsel) that specifies and  
19 itemizes the Disclosure or Discovery Material previously designated as Protected  
20 Material/Confidential Documents that shall no longer be subject to all or some of the  
21 provisions of the parties' Stipulation and Order. Such express withdrawal shall be  
22 effective when transmitted or served upon the Receiving Party. If a Designating Party  
23 is withdrawing Protected Material from only some of the provisions/protections of the  
24 parties' Stipulation and this Order, such Party must state which specific provisions  
25 are no longer to be enforced as to the specified material for which confidentiality  
26 protection hereunder is withdrawn: otherwise, such withdrawal shall be construed as  
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1 a withdrawal of such material from all of the protections/provisions of the parties’  
2 Stipulation and this Order;

3 (b) Express Withdrawal on the Record. A Designating Party may withdraw  
4 a “CONFIDENTIAL” designation made to any specified Protected Material/  
5 Confidential Documents from all of the provisions/protections of the parties’  
6 Stipulation and this Order by verbally consenting in court proceedings on the record  
7 to such withdrawal – provided that such withdrawal specifies the Disclosure or  
8 Discovery Material previously designated as Protected Material/Confidential  
9 Documents that shall no longer be subject to any of the provisions of the parties’  
10 Stipulation and this Order. A Designating Party is not permitted to withdraw Protected  
11 Material from only some of the protections/ provisions of the parties’ Stipulation and  
12 this Order by this method;

13 (c) Implicit Withdrawal by Publication or Failure to Oppose Challenge. A  
14 Designating Party shall be construed to have withdrawn a “CONFIDENTIAL”  
15 designation made to any specified Protected Material/Confidential Documents from  
16 all of the provisions/protections of the parties’ Stipulation and this Order by either  
17 (1) making such Protected Material/Confidential Records part of the public record –  
18 including but not limited to attaching such as exhibits to any filing with the court  
19 without moving, prior to such filing, for the court to seal such records; or (2) failing  
20 to timely oppose a Challenging Party’s motion to remove a “CONFIDENTIAL”  
21 designation to specified Protected Material/Confidential Documents.

22 Nothing in the parties’ Stipulation and this Order shall be construed so as to  
23 require any Party to file Protected Material/Confidential Documents under seal,  
24 unless expressly specified herein.

25 **6. ACCESS TO AND USE OF PROTECTED MATERIAL.**

26 6.1. Basic Principles. A Receiving Party may use Protected Material that is  
27 disclosed or produced by another Party or by a non-party in connection with this case  
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1 only for preparing, prosecuting, defending, or attempting to settle this litigation – up  
2 to and including final disposition of the above-entitled action – and not for any other  
3 purpose, including any other litigation or dispute outside the scope of this action.  
4 Such Protected Material may be disclosed only to the categories of persons and under  
5 the conditions described in the parties’ Stipulation and this Order. When the above  
6 entitled litigation has been terminated, a Receiving Party must comply with the  
7 provisions of section 10, below (FINAL DISPOSITION).

8       Protected Material must be stored and maintained by a Receiving Party at a  
9 location and in a secure manner that ensures that access is limited to the persons  
10 authorized under the parties’ Stipulation and its Order.

11       6.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless  
12 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
13 Receiving Party may disclose any information or item designated CONFIDENTIAL  
14 only to:

15       (a) the Receiving Party’s Outside Counsel of record in this action, as well  
16 as employees of such Counsel to whom it is reasonably necessary to disclose the  
17 information for this litigation;

18       (b) the officers, directors, and employees (including House Counsel) of the  
19 Receiving Party to whom disclosure is reasonably necessary for this litigation – each  
20 of whom, by accepting receipt of such Protected Material, thereby agree to be bound  
21 by the parties’ Stipulation and this Order;

22       (c) Experts (as defined in the parties’ Stipulation and this Order) of the  
23 Receiving Party to whom disclosure is reasonably necessary for this litigation – each  
24 of whom, by accepting receipt of such Protected Material, thereby agree to be bound  
25 by the parties’ Stipulation and this Order;

26       (d) court reporters, their staffs, and Professional Vendors to whom  
27 disclosure is reasonably necessary for this litigation – each of whom, by accepting  
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1 receipt of such Protected Material, thereby agree to be bound by the parties'  
2 Stipulation and this Order;

3 (e) during their depositions, witnesses in the action to whom disclosure is  
4 reasonably necessary – each of whom, by accepting receipt of such Protected  
5 Material, thereby agree to be bound by the parties' Stipulation and this Order. Pages  
6 of transcribed deposition testimony or exhibits to depositions that reveal Protected  
7 Material may not be disclosed to anyone except as permitted under the parties'  
8 Stipulation and this Protective Order.

9 (f) the author or custodian of a document containing the information that  
10 constitutes Protected Material, or other person who otherwise possessed or knew the  
11 information.

12 6.3. Notice of Confidentiality. Prior to producing or disclosing Protected  
13 Material/Confidential Documents to persons to whom the parties' Stipulation and this  
14 Order permits disclosure or production (see section 6.2, *supra*), a Receiving Party  
15 shall provide a copy of the parties' Stipulation and Order to such persons so as to put  
16 such persons on notice as to the restrictions imposed upon them herein: except that,  
17 for court reporters, Professional Vendors, and for witnesses being provided with  
18 Protected Material during a deposition, it shall be sufficient notice for Counsel for the  
19 Receiving Party to give the witness a verbal admonition (on the record, for witnesses)  
20 regarding the provisions of the parties' Stipulation and this Order and such provisions'  
21 applicability to specified Protected Material at issue.

22 6.4. Reservation of Rights. Nothing in the parties' Stipulation and this Order  
23 shall be construed so as to require any Producing Party to designate any records or  
24 materials as "CONFIDENTIAL." Nothing in the parties' Stipulation or this Order  
25 shall be construed so as to prevent the admission of Protected Material into evidence  
26 at the trial of this action, or in any appellate proceedings for this action, solely on the  
27 basis that such Disclosure or Discovery Material has been designated as Protected  
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1 Material/Confidential Documents. Notwithstanding the foregoing, nothing in the  
2 parties' Stipulation or this Order shall be construed as a waiver of any privileges or  
3 of any rights to object to the use or admission into evidence of any Protected Material  
4 in any proceeding; nor shall anything herein be construed as a concession that any  
5 privileges asserted or objections made are valid or applicable.

6 Nothing in the parties' Stipulation or this Order shall be construed so as to  
7 prevent the Designating Party (or its Counsel or custodian of records) from having  
8 access to and using Protected Material designated by that Party in the manner in which  
9 such persons or entities would typically use such materials in the normal course of  
10 their duties or profession – except that the waiver of confidentiality provisions shall  
11 apply (see section 5.4(c), *supra*).

12 6.5. Requirement to File Confidential Documents Under Seal. Confidential  
13 Documents may be submitted in all law and motion proceedings before the Court if  
14 done so under seal pursuant to Federal Rules of Civil Procedure 5.2 and 26 and/or  
15 United States District Court, Eastern District of California Local Rules 141, 141.1,  
16 143, 230, and/or 251 (as applicable) and pursuant to the provisions of the parties'  
17 Stipulation and this Order. If any Receiving Party attaches any Confidential  
18 Documents to any pleading, motion, or other paper to be filed, lodged, or otherwise  
19 submitted to the Court, such Confidential Document(s) shall be filed/lodged under  
20 seal pursuant to Federal Rules of Civil Procedure 5.2 and 26 and/or United States  
21 District Court, Eastern District of California Local Rules 141, 141.1, 143, 230 and/or  
22 251 to the extent applicable.

23 However, this paragraph (§ 6.5) shall not be construed so as to prevent a  
24 Designating Party or counsel from submitting, filing, lodging, or publishing any  
25 document it has previously designated as a Confidential Document without  
26 compliance with this paragraph's requirement to do so under seal (i.e., a producing-  
27 disclosing party or counsel may submit or publish its own Confidential Documents  
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1 without being in violation of the terms of the parties' Stipulation and this Protective  
2 Order).

3 Furthermore, a Receiving Party shall be exempted from the requirements of  
4 this paragraph as to any specifically identified Confidential Document(s) where –  
5 prior to the submission or publication of the Confidential Document(s) at issue – the  
6 Designating Party of such specifically identified Confidential Document(s) has  
7 waived/withdrawn the protections of the parties' Stipulation and this Order (pursuant  
8 to paragraph 5.4, *supra*).

9 A Receiving Party shall also be exempt from the sealing requirements of this  
10 paragraph (§ 6.5) where the Confidential Documents/Protected Material at issue is/are  
11 **not** documents, records, or information regarding:

12 (1) private, personal information contained in peace officer personnel files  
13 (such as social security numbers, driver's license numbers or comparable personal  
14 government identification numbers, residential addresses, compensation or pension  
15 or personal property information, credit card numbers or credit information, dates of  
16 birth, tax records and information, information related to the identity of an officer's  
17 family members or co-residents, and comparable personal information about the  
18 officer or his family);

19 (2) any internal affairs or comparable investigation by any law enforcement  
20 agency into alleged officer misconduct; and/or

21 (3) the medical records or records of psychiatric or psychological treatment  
22 of any peace officer or party to this action.

23 Nothing in this paragraph shall be construed to bind the Court or its authorized  
24 staff so as to limit or prevent the publication of any Confidential Documents to the  
25 jury or factfinder, at the time of trial of this matter, where the Court has deemed such  
26 Confidential Documents to be admissible into evidence.

27 **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
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**PRODUCED IN OTHER LITIGATION.**

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party, preferably (though not necessarily) by facsimile or electronic mail. Such notification shall include a copy of the subpoena or court order at issue;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to the parties’ Stipulation and this Protective Order. Such notification shall include a copy of the parties’ Stipulation and this Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by all sides in any such situation, while adhering to the terms of the parties’ Stipulation and this Order.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material – and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

The purpose of this section is to ensure that the affected Party has a meaningful opportunity to preserve its confidentiality interests in the court from which the subpoena or court order issued.

**8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.**



1           8.1.   Unauthorized Disclosure of Protected Material.

2 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
3 Protected Material to any person or in any circumstance not authorized under the  
4 parties' Stipulation and this Order, the Receiving Party must immediately:

5           (a) notify in writing the Designating Party of the unauthorized disclosures;

6           (b) use its best efforts to retrieve all copies of the Protected Material;

7           (c) inform the person or persons to whom unauthorized disclosures were  
8 made of all the terms of this Order; and

9           (d) request such person or persons consent to be bound by the Stipulation and  
10 this Order.

11           8.2.   Inadvertent Production of Privileged or Otherwise Protected Material.

12 When a Producing Party gives notice to Receiving Parties that certain inadvertently  
13 produced material is subject to a claim of privilege or other protection, the  
14 obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
15 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
16 may be established in an e-discovery order that provides for production without  
17 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar  
18 as the parties reach an agreement on the effect of disclosure of a communication or  
19 information covered by the attorney-client privilege or work product protection, the  
20 parties may incorporate their agreement in the stipulated protective order submitted  
21 to the court.

22 **9. PUBLICATION OF PROTECTED MATERIAL PROHIBITED.**

23           9.1.   Filing of Protected Material.

24           Without advance written permission from the Designating Party, or a court  
25 order secured after appropriate notice to all interested persons, a Receiving Party  
26 may not file in the public record in this action any Protected Material. A Party that  
27 seeks to file under seal any Protected Material must comply with the applicable  
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1 Federal and Local Rules.

2 9.2. Public Dissemination of Protected Material.

3 A Receiving Party shall not publish, release, post, or disseminate Protected  
4 Material to any persons except those specifically delineated and authorized by the  
5 parties' Stipulation and this Order (see section 6, *supra*); nor shall a Receiving Party  
6 publish, release, leak, post, or disseminate Protected Material/Confidential  
7 Documents to any news media, member of the press, website, or public forum  
8 (except as permitted under this Order regarding filings with the court in this action  
9 and under seal).

10 **10. FINAL DISPOSITION.**

11 Unless otherwise ordered or agreed in writing by the Producing Party, within  
12 thirty (30) days after the final termination of this action (defined as the dismissal or  
13 entry of judgment by the above named court, or if an appeal is filed, the disposition  
14 of the appeal), upon written request by the Producing Party, each Receiving Party  
15 must return all Protected Material to the Producing Party – whether retained by the  
16 Receiving Party or its Counsel, Experts, Professional Vendors, agents, or any non-  
17 party to whom the Receiving Party produced or shared such records or information.

18 As used in this subdivision, “all Protected Material” includes all copies,  
19 abstracts, compilations, summaries or any other form of reproducing or capturing  
20 any of the Protected Material, regardless of the medium (hardcopy, electronic, or  
21 otherwise) in which such Protected Material is stored or retained.

22 In the alternative, at the discretion of the Receiving Party, the Receiving Party  
23 may destroy some or all of the Protected Material instead of returning it – unless  
24 such Protected Material is an original, in which case, the Receiving Party must  
25 obtain the Producing Party's written consent before destroying such original  
26 Protected Material.

27 Whether the Protected Material is returned or destroyed, the Receiving Party  
28

1 must submit a written certification to the Producing Party (and, if not the same  
2 person or entity, to the Designating Party) within thirty (30) days of the  
3 aforementioned written request by the Designating Party that specifically identifies  
4 (by category, where appropriate) all the Protected Material that was returned or  
5 destroyed and that affirms that the Receiving Party has not retained any copies,  
6 abstracts, compilations, summaries or other forms of reproducing or capturing any  
7 of the Protected material (in any medium, including but not limited to any hardcopy,  
8 electronic or digital copy, or otherwise).

9 Notwithstanding this provision, Counsel are entitled to retain an archival copy  
10 of all pleadings, motion papers, transcripts, legal memoranda filed with the court in  
11 this action, as well as any correspondence or attorney work product prepared by  
12 Counsel for the Receiving Party, even if such materials contain Protected Material;  
13 however, any such archival copies that contain or constitute Protected Material  
14 remain subject to this Protective Order as set forth in Section 3, above. This court  
15 shall retain jurisdiction in the event that a Designating Party elects to seek court  
16 sanctions for violation of the parties' Stipulation and this Order.

17 **11. MISCELLANEOUS.**

18 11.1. Right to Further Relief. Nothing in the parties' Stipulation or this Order  
19 abridges the right of any person to seek its modification by the Court in the future.

20 11.2. Right to Assert Other Objections. By stipulating to the entry of this  
21 Protective Order pursuant to the parties' Stipulation, no Party waives any right it  
22 otherwise would have to object to disclosing or producing any information or item  
23 on any ground not addressed in the parties' Stipulation or this Order. Similarly, no  
24 Party waives any right to object on any ground to use in evidence any of the material  
25 covered by the parties' Stipulation and this Protective Order.

26 The provisions of the parties' Stipulation and this Protective Order shall be in  
27 effect until further Order of the Court.

1 Respectfully submitted by:

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8  
9 Attorneys for Defendants, CITY OF FRESNO, and OFFICER GUSTAVO  
GUTIERREZ

10  
11 **ORDER**

12 IT IS SO ORDERED.

13 Dated: **October 31, 2024**

*/s/ Sheila K. Oberto*

14 UNITED STATES MAGISTRATE JUDGE